

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
STATESVILLE DIVISION
CIVIL DOCKET NO.: 5:02CV57-V**

IN RE:)	<i>Bankruptcy Case No.: 98050517</i>
)	<i>Chapter 7</i>
JOHN ROBERT MULLINS,)	
Debtor.)	
_____)	
)	
BARRETT L. CRAWFORD, Trustee,)	<i>Bankruptcy Adversary Proceeding</i>
Plaintiff,)	<i>Case No.: 00-5013</i>
)	
vs.)	
)	
CHARLES ROBERT MULLINS,)	
JEAN FERGUSON GILBERT, and)	
ROBERT A. TATUM,)	
Defendants.)	
_____)	

THIS MATTER is before the Court on the Trustee's motion filed December 2, 2005. (Document #62) The Trustee's motion requested a continuance of trial and re-referral of this matter to the Bankruptcy Court for final disposition.

On December 2, 2005, the Court continued the trial of this matter as a result of settlements entered into between the Trustee and Adversary Defendants Gerald A. Dechow, Susan Mullins Maynard, David Maynard, Stella Mullins Cranwell, William C. Cranwell, and Steven F. Vicroy. (Document #63) The need to provide notice of the proposed settlement to the debtor's creditors, as well as the need to pursue approval of the settlement from the Bankruptcy Court, required the Court to continue the trial peremptorily set for December 7, 2005.¹ The trial of this Adversary Proceeding was

¹ The Court essentially cleared its calendar for up to 2 weeks in order to preside over the adversary proceeding trial.

continued until the March 2006 trial term in the Statesville Division.

The Trustee also moved for the re-referral of this matter to the Bankruptcy Court. In order to provide the remaining Adversary Defendants with an opportunity to respond, the Court deferred ruling on the Trustee's motion requesting that the Court vacate its December 15, 2004 Order withdrawing the reference to the Bankruptcy Court for purposes of jury trial. (See Document #18) On December 29, 2005, objections to the Trustee's motion were filed with the Bankruptcy Court by Adversary Defendants Charles Mullins and Jean Ferguson.² On January 17, 2006, the district court received notice of objection from the Bankruptcy Court. (Document #64)

For the same reasons the Court initially vacated the reference to the Bankruptcy Court, namely, to accommodate certain Adversary Defendants' request for a jury trial, the Court will deny the Trustee's motion.³ Therefore, this matter is ready to proceed to trial.

As stated in open court during Calendar Call on March 6, 2006, the parties shall be prepared to proceed with jury selection on Tuesday, April 4, 2006. Likewise, the parties are expected to be prepared for trial on that date and have witnesses on standby consistent with the terms of this Order. The trial of this adversary proceeding shall immediately follow conclusion of the civil trial in *Boyle vs. Fasano*, Docket No.: 5:03CV47-V (expected to last approximately 5 to 7 days). The parties are directed to contact the Clerk's Office on April 3, 2006, in order to verify that Jury Selection will begin on April 4, 2006.⁴ Pretrial filings, including trial briefs, summary of the issues for trial, and proposed jury

² The Court is advised that Robert A. Tatum is also pending for trial. According to the Trustee, the case against all other Adversary Defendants has been resolved.

³ The Court is not inclined to re-refer this discrete portion of the case back to the Bankruptcy Court only to revisit the question of Defendants' entitlement to a jury trial.

⁴ The undersigned also explained at calendar call that there *may* be a need to conduct jury selection on Monday, April 10, 2006, as opposed to Tuesday, April 4, 2006.

instructions, are due no later than March 21, 2006.

IT IS, THEREFORE, ORDERED THAT:

- 1) The Trustee's Motion To Re-Refer This Adversary Proceeding To The Bankruptcy Court is **DENIED**;
- 2) The District Court will retain this Adversary Proceeding for purposes of jury trial;
- 3) The parties are directed to contact the Statesville Division Clerk's Office on Monday, April 3, 2006, at (704) 883-1000, in order to verify that Jury Selection will in fact begin on Tuesday, April 4, 2006;
- 4) Unless otherwise directed by the Court (or the Courtroom Deputy, Clerk's Office) the parties shall appear for Jury Selection on **Tuesday, April 4, 2006, at 9:30 a.m.**, in the Statesville Division;
- 5) Trial will commence immediately following conclusion of the civil trial in *Docket No.: 5:03CV47-V*;
- 6) Pretrial filings are due **no later than March 21, 2006**; and
- 7) The Deputy Clerk shall deliver a copy of the instant Order by certified mail, return receipt requested, to the relevant *pro se* parties (*Charles Robert Mullins, Jean Ferguson Gilbert, and Robert A. Tatum*). The Deputy Clerk shall also forward a copy of this Order to the Trustee, The Honorable J. Craig Whitley, U.S. Bankruptcy Judge, and the U.S. Bankruptcy Court Clerk.

Signed: March 10, 2006

A handwritten signature in black ink, reading "Richard L. Voorhees". The signature is written in a cursive style with a horizontal line underneath the name.

Richard L. Voorhees
Chief United States District Judge

